THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.16702 OF 1999

DATED 06.10.2005

BETWEEN

P.Gopal and others

…Petitioners

and

Nukala Ramachandra Reddy Puram Government Class-IV

Employees, Drivers and other low paid employees Cooperative Housing Society Ltd., S.R.Nagar, Hyderabad and others.

…Respondents

WRIT PETITION NO.8581 OF 2003

BETWEEN

Ahmed Khan and others

… Petitioners

and

Nukala Ramachandra Reddy Puram Government Class-IV

Employees, Drivers and other low paid employees Cooperative Housing Society Ltd., S.R.Nagar, Hyderabad and others.

…Respondents

WRIT PETITION NO.16420 OF 2005

BETWEEN

Mohd.Abdul Sattar and others.

…Petitioners

and

Nukala Ramachandra Reddy Puram Government Class-IV

Employees, Drivers and other low paid employees Cooperative Housing Society Ltd., S.R.Nagar, Hyderabad and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.16702 of 1999, 8581 of 2003

and 16420 of 2005

COMMON ORDER:

In all these writ petitions the petitioners are allegedly Government servants working as class IV employees i.e., drivers, attenders and the like. W.P.No.16702 of 1999 is filed by thirty five persons claiming to be members initially of the Hyderabad City Class IV Employees and Drivers Housing Committee (hereafter called, Hyderabad Committee) and subsequently members of Nukala Ramachandra Reddy Puram Government Class IV Employees, Drivers and other low paid Employees Cooperative Housing Society Limited (hereafter called, NRR Puram Society). They filed the writ petition on 29.07.1999 praying for writ of Mandamus declaring the action of Hyderabad Urban Development Authority (HUDA), which is arrayed as sixth respondent in the said writ petition, in attempting to dispossess petitioners from their plots in collusion with other respondents as illegal, unconstitutional and violative of principles of natural justice. They also seek further declaration that the petitioners are exclusively entitled to develop their plots without interference from the respondents. They have arrayed NRR Puram Society, Hyderabad Committee as respondents 1 and 2 respectively. The Government of Andhra Pradesh in Revenue Department, the Director of Town Planning, the District Collector, Hyderabad and HUDA are shown as respondents 3 to 6 in that order. W.P.No.8581 of 2003 is filed by six petitioners for the same relief and the respondents in this writ petition are also same as in the first writ petition. W.P.No.16420 of 2005 is filed by two petitioners against six respondents (same as in the first writ petition) for the same relief. Therefore, the three writ petitions are being disposed of by this common order.

W.P.No.16702 of 1999 was filed on 29.07.1999. The same came up for admission on 05.08.1999. While admitting the matter, this Court passed interim orders in W.P.M.P.No.20708 of 1999 staying dispossession of the petitioners. On 11.10.1999, the interim order was modified and this Court directed the District Collector, Hyderabad to enquire into the matter and furnish the information with regard to five issues pointed out by the Court in the order. The District Collector, Hyderabad, however, addressed a letter to police to initiate criminal proceedings against President and Members of NRR Puram Society alleging that they have colluded with the land grabbers and are selling away the open land of the society. Therefore, the petitioners filed W.P.M.P.No.5683 of 2000 praying this Court to suspend the letter dated 08.02.2000 of the District Collector. This Court by an order dated

24.03.2000 suspended the said letter observing that without completing enquiry as ordered by this Court on 11.10.1999, the District Collector cannot straightaway order prosecution. Thereafter, though the matter was listed number of times for hearing, the same could not be taken up. In the meanwhile, the other two writ petitions came to be filed. When W.P.No.16420 of 2005 was listed before this court on 27.07.2005, this Court directed all the three matters to be listed together in the Motion List and that these three matters are coming for admission/disposal.

The District Collector filed a report dated 12.09.2005. This Court perused the said report and other material on record and heard the learned counsel for the petitioners in W.P.No.16702 of 1999, Sri T.Jagdish and the learned counsel for petitioners in other two writ petitions Sri A.Ravindra Reddy. They would strenuously contend that the petitioners were initially members of Hyderabad Committee and after formation of NRR Puram Society, they became members of the said Society. They would also contend that they were allotted plots by NRR Puram Society, that they are in possession of the property, that HUDA is trying to interfere and dispossess the petitioner from the respective plots, and that the District Collector has no authority to cancel the allotment made in favour of the petitioners. They also relied on the allotment letters issued by the Hyderabad Committee to some of the petitioners.

The learned Assistant Government Pleader for Revenue (Assignment), Mr.V.Hari Prasad Reddy has taken this Court through the counter affidavit and the report dated 12.09.2005 submitted by the District Collector, Hyderabad. He submits that all the other members of petitioner association are not members of NRR Puram Society, that they were not allotted any plots in the land meant for class IV employees and that they filed the writ petitions by making misrepresentations. He would also submit that the President of the Society and others illegally sold away the lands in the layout meant for community purposes and allowed encroachments on the road portions for monetary consideration. Sri K.G.Krishna Murthy, learned counsel for NRR Puram Society, submits that the erstwhile President of the Society resorted to misappropriation, against whom an enquiry was conducted under Section 51 of A.P.Cooperative Societies Act, 1964, that all the petitioners are not members of the Society and that these writ petitions are filed by making false and misleading allegations. With regard to W.P.No.16420 of 2005, the learned counsel for NRR Puram Society would submit that Abdul Sattar, the first petitioner in W.P.No.16420 of 2005 died on 06.10.1995 as per the certificate of death issued by the Municipal Corporation but curiously the writ petition is filed based on a general power of attorney allegedly signed by Abdul Sattar on 04.05.2005. He would, therefore, pray this Court to dismiss the writ petition only on the said ground.

Insofar as W.P.No.16420 of 2005 is concerned, the certificate of death which is annexed by NRR Puram Society to its W.V.M.P.No.2198 of 2005, would show that Abdul Sattar,
S/o late Jamaluddn died on 06.10.1995. Curiously, at page 21 of the material papers in W.P.No.16420 of 2005, general power of attorney executed by Abdul Sattar, S/o Jamaluddin on 04.05.2005 is filed, which is the basis for Sri Mohd.Mohsin, the general power of attorneyholder, for filing the writ petition. This is quite objectionable. It is ununderstandable as to how a person who died on 06.10.1995

could have executed a general power of attorney on 04.05.2005 in favour of Mr.Mohd.Mohsin. For this reason alone, this writ petition is liable to be dismissed, notwithstanding the fact that there is also another writ petitioner M.A.Waheed, who is also executed a general power of attorney in favour of Mr.Mohd.Mohsin. Though the learned counsel for the petitioners, Sri A.Ravindra Reddy, tried to make a case that the person who died on 06.10.1995 and the person who executed general power of attorney in favour of the Mohd.Mohsin are different, after perusing the documents carefully, this Court is convinced that the submission is misconceived and is liable to be rejected. For these reasons, W.P.No.16420 of 2005 is dismissed with costs. It may also be noted that the petitioners 1 and 2 claim to be allottees of Plots 2 and 3 respectively. This is denied by the District Collector in the counter affidavit stating that there are no such plots like plot Nos.2 and 3 and there is no such site “B” and it is Government land open on the ground.

Insofar as W.P.No.16702 of 1999 and W.P.No.8581 of 2003 are concerned, these writ petitions are also devoid of any merit and are liable to be dismissed for reasons more than one. This Court while directing the District Collector to enquire into the matter and file a report in its order dated 11.10.1999 noticed the facts of the case and observed as under.

> The petitioners in this writ petition claiming to be Class IV employees working in different Governmental Departments filed this writ petition by contending that separate associations were formed for the Class-IV employees working in various departments in the year 1970 and thereafter the associations approached the Government for allotment of land for construction of houses by the members of the association. Thereafter the Government seemed to have allotted 50 acres of land in G.O.Ms.No.1194, 18.12.1974 at a market value of Rs.1/- per sq.yard. Thereafter each of the member of the association seemed to have paid the sale consideration under individual challans under the Revenue Head of 0-29. Thereafter, each of the member of the association seemed to have paid the sale consideration under individual challans under the Revenue Head of 0-29. Thereafter, when the committee failed to mobilize the required funds for constructing the houses, a building cooperative society seemed to have been formed on the advise of the HUDA in July, 1976 and thereafter the said lands seemed to have been hypothecated to the HUDA for development. The HUDA seemed to have constructed 1564 houses in three phases and they were allotted in favour of the members of the society as per the seniority. It is also brought to the notice of the Court that on 23.6.1981 another extent of 11 acres 20 guntas were assigned in favour of the building cooperative society vide G.O.Ms.No.1014, dt.23.6.1981 and according to the counsel for the society, the open land seemed to have been allotted the remaining members of the society. It also came light that now most of the members of the society not Class-IV employees but they are Ministerial employees. Now, the grievance of the petitioners before this Court is that though they paid the amount required for in 1974 they were not given membership in the society by the persons who were managing the affairs of the society and fraud has been played on them. In the light of the facts that came to light, I direct the District Collector to enquire into the matter and furnish the following information.

1. The names of the persons who paid the consideration under individual

challan revenue account of the Government, .. after assignment of the lands.

2. As per the letter of the Collector Lr.No.F3-9510/1973, dt.5.8.1974 eight class IV associations approached him and made individual representations to him for assignment of the land with their members,.. he has given the break-up in the said letter. If it is a fact, the Collector shall file the list of members submitted by each of the association in the Court.

3. As per the counsel for the society, there are about 2500 members as on today and most of them seemed to be ministerial servants. District Collecttor shall verify whether these members were Class-IV employees as the time when they became members of the society and when they became members of the society.

4. Whether all the original members of the Class-IV employees association who approached the Government for assignment were given membership in the society or not.

5. Even according to the counsel for the society, the land assigned could only accommodate 1564 people, as per the lay out approved by HUDA. But as on today, the membership seemed to be 2500. How the membership has swollen to such an extent when no land is available for assignment.

Immediately after receipt of the order of this Court the Collector shall verify whether any of the petitioners are in possession of any house sites in the land assigned to the Class-IV employees association. If any of the petitioners are in possession of the lands, their possession shall not be disturbed by the society, till disposal of the writ petition and society shall not assign or part with any parcel of land that was assigned for the purpose of providing house sites to the Class IV employees.

The interim order dt.5.8.1999 is modified to that extent.

After passing the above order, the Government Pleader brought to the notice of the Court that the society filed another writ petition No.14194/1998 seeking a direction to the respondents not to interfere with its possession over the land. As the subject matter of this writ petition and the subject matter of the connected writ petition is the same, I feel it appropriate to hear and dispose of both the writ petitions.

Office is directed to post these matters 'for orders' on 06.12.1999.

The said order passed by this Court has become final. The petitioners cannot now be permitted to take a different stand than what was observed by this Court. A bare perusal of the above order would show that the petitioners came to the Court alleging that though they paid the amount to the Society, they were not given membership in the Society. It is not denied before this Court that the Government allotted lands in 1974 and 1991 to enable the Society of Class IV Employees Associations, namely, NRR Puram Society to allot house plots to its members and also allowed the Society to mortgage the property to HUDA. As noticed by this Court

in the above order, plots were allotted to 1564 members in three phases, which were allotted to members of Society as per seniority. Pursuant to the orders of this Court, the District Collector got a door-to-door survey conducted and filed the list of members, which would show that there are 1549 members in the Society who are actually in occupation of various plots. The statement showing the plot numbers, the names of original allottees, the names of tenants who are in occupation is annexed to the report of the District Collector dated 12.09.2005.

Before taking up this matter, this Court directed to furnish copies thereof to the learned counsel for the petitioners, who made submissions after perusing the report. Even when the petitioners approached this Court at the earliest point of time, their case was that the plots were allotted by Mandal Revenue Officer, Khairatabad as manifested in annexure to the report of the District Collector can be taken as true ground position. Therefore the submission that petitioners are members of NRR Puram Society and they were allotted plots cannot be accepted.

Insofar as the petitioners in W.P.No.16702 of 1999 is concerned, they have not placed before this Court any allotment letters issued to them by NRR Puram Society. The petitioners in W.P.No.8581 of 2003 have annexed the allotment letters given by Hyderabad Committee in September, 1976. These cannot be believed especially having regard to the admitted position that the Government allotted initially Acs.50.00 of land to the members of Class IV Employees and Government Drivers Association, who formed themselves into NRR Puram Society. The Government again allotted another extent of Acs.11.00 and then a layout was prepared and got approved. Therefore, it could not have been possible to allot the plots in September, 1976 itself. Secondly, the petitioners claim that M.I.Gulshiyani was the Chairman of Hyderabad Committee who collected money for allotted plots. NRR Puram Society, however, denies this. Above all, even this Court noticed in its earlier order that they were not even members of the Society and therefore this Court is not able to accept the submission that the petitioners are members of the Society were allotted plots.

The Government of Andhra Pradesh with good intention allotted land to class IV employees, who formed themselves into a Society. The plots were allotted to some of the members who are enrolled as members validly. The door-to-door survey conducted by the District Collector proves this. Unfortunately some of the members of the managing committee without scruples appear to have deceived gullible persons, who are not even members of the Society. Some of those persons are before this Court. They have failed to demonstrate before this Court that they have any right that can be enforced in these proceedings under Article 226 of Constitution of India. The writ petitions are misconceived and devoid of merits.

In the result, the W.P.No.16420 of 2005 is dismissed with costs and W.P.Nos.16702 of 1999 and 8581 of 2003 are dismissed without any order as to costs.

(V.V.S.RAO,J)

.10.2005.

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